

## HIGHLIGHTS OF S.B. 81, ILLEGAL IMMIGRATION

Beginning July 1, 2009

- (1) Requires a county sheriff to make a reasonable effort to determine the citizenship status of a person confined to a county jail for a period of time and to verify the immigration status of a confined foreign national  
(2) Makes it a rebuttable presumption, for the purpose of determining the grant or issuance of a bond, that a person verified by the sheriff's efforts as a foreign national not lawfully admitted in to the United States is at risk of flight. (Section 17-22-9.5 - Newly enacted)
- Provides that the Alcoholic Beverage Control Commission may not grant a restaurant liquor license or private club license to a person who is not lawfully present in the United States. (Amends Sections 32A-4-103 with new Subsection (7) and 32A-5-103 with new Subsection (7))
- (1) Provides for the creation and issuance of identification documents, such as birth certificates, drivers licenses, identification cards, by public and private entities and requires that those issued by public entities go only to United States citizens, nationals, or legal permanent resident aliens, unless the person provides valid documentary evidence of certain approved or pending immigration status, such as unexpired immigrant or nonimmigrant visa status for admission into the United States, pending or approved application for asylum in the United States, or admission into the United States as a refugee.  
(2) Identification documents issued to the exceptions noted above are valid only for the period of time of the person's authorized stay in the United States or for one year from the date of issuance if there is no definite end to the period of authorized stay, but may be renewed if the applicant can show that the status by which the applicant originally qualified for the identification document has been extended by the United States Citizenship and Immigration Services or the Department of Homeland Security.  
(3) Provision (1) does not apply to a driving privilege card issued or renewed under Section 53-3-207 or an identification document issued by an institution of higher education that is only valid for use on the institution's campus or facility. (Section 63-99a-102 - Newly enacted)
- (1) Requires public employers to register with and use a Status Verification System to verify the federal employment authorization status (citizenship or immigration status) of a new employee, and provides that a public employer may not enter into a contract for the physical performance of services within the state unless the contractor registers and participates in the Status Verification System to verify the work eligibility status of the contractor's new employees  
(2) Requires the contractor to verify the employment status of only new employees who work under the contractor's supervision or direction and for a subcontractor who works

under the contractor to certify by affidavit that the subcontractor has verified the employment status of the subcontractor's new employees through the Status Verification System.

- (3) Provisions (1) and (2) do not apply to:
  - (a) contracts entered into prior to July 1, 2009, even if they involve the performance of services within the state on or after that date; or
  - (b) contracts that involve underwriting, remarketing, broker-dealer activities, securities placement, investment advisory, financial advisory, or other financial investment banking services. (Section 63-99a-103 - Newly enacted)
- Makes it unlawful for an employing entity to discharge a lawful employee working in Utah while retaining an unauthorized alien working in the state in the same job category . (Section 63-99a-103 - Newly enacted)
- (1) Requires an agency or political subdivision of the state to verify the lawful presence in the United States of an individual who has applied for a state or local benefit as defined by federal law, or a federal public benefit that is administered by the agency or political subdivision, and provides for exceptions that reflect the exceptions referenced under federal law.  
(2) Requires an applicant for a state or local benefit to certify the applicant's lawful presence in the United States, and provides a penalty for making a false, fictitious, or fraudulent statement or representation in the certification. (Section 63-99a-104 - Newly enacted)
- Subject to the availability of funding, provides for the establishment of a Fraudulent Documents Identification Unit by the attorney general for the primary purpose of investigating, apprehending, and prosecuting individuals who participate in the sale or distribution of fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state. (Section 67-5-22.5 - Newly enacted)
- (1) Requires the attorney general to negotiate a Memorandum of Understanding with the United States Department of Justice or the United States Department of Homeland Security for the enforcement of federal immigration and customs laws within the state by state and local law enforcement personnel  
(2) Prohibits a unit of government from enacting an ordinance or policy that limits or prohibits a law enforcement officer or government employee from communicating or cooperating with federal officials regarding the immigration status of a person within the state.  
(3) Provides for a private right of action to file for a writ of mandamus to compel a noncompliant local or state governmental agency to comply with the reporting laws (Section 67-5-26 - Newly enacted)
- (1) Makes it a class A misdemeanor for a person to transport into the state or for a distance of 100 miles within the state an alien for commercial advantage or private financial gain, knowing that the alien is in the United States in violation of federal law, in

furtherance of the illegal presence or knowingly, with intent to violate federal immigration law, conceal, harbor, or shelter from detection an alien in a place within this state for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the United States in violation of federal law.

(2) This newly enacted section, Section 76-10-2701, does not prohibit:

- (a) providing charitable or humanitarian assistance by a charitable, educational, or religious organization or its employees, agents, or volunteers using private funds; or
- (b) a religious denomination or organization or an officer, agent, or member of the denomination or organization from encouraging, inviting, calling, or allowing an alien to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer.